

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DAVID A. PATTERSON,

Plaintiff,

v.

Case No. 2:05-cv-177
HON. GORDON J. QUIST

R. KLEEMAN, et al.,

Defendants.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge on November 20, 2006. The Report and Recommendation was duly served on the parties. The Court received objections from the Plaintiff, as well as a motion to strike and/or withdraw his pending motion to amend complaint. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made.

Plaintiff contends that the Magistrate Judge erred in recommending denial of his motion for summary judgment. According to Plaintiff, he is entitled to summary judgment because he has succeeded in raising a genuine issue of material fact. However, the existence of a genuine issue of material fact precludes a finding of summary judgment. Plaintiff appears to be claiming that because Defendants have not disproven his factual allegations, he is entitled to summary judgment. However, the fact that Plaintiff has made certain allegations does not negate the existence of a genuine issue of material fact. Therefore, Plaintiff's motion for summary judgment is properly denied.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket #52) is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that Defendants' motion to dismiss (docket #30) and Plaintiff's motions for summary judgment and to amend complaint (docket #41 and #50) are DENIED.

Dated: March 19, 2007

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE